

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1301 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

MAHASUKHLAL G GANDHI

Versus

DHORAJI MUNICIPALITY

Appearance:

None present for Petitioner

MS MANISHA LAVKUMAR AGP for Respondent No. 2 & 3

None present for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/06/2000

ORAL JUDGEMENT

#. The petitioner, a retired employee in the respondent No.1 filed this petition and prayed for the following reliefs :-

(A) to allow this petition with costs;

(B) to direct the respondent Municipality to make payment of the entire amount which remains due and payable to the petitioner together with interest at the rate of 12% on and from 1st September, 1986, within the time that may be specified by this Hon'ble Court.

(C) to direct the respondent Nos. 2 and 3 to take appropriate actions against the respondent No.1 Municipality as provided under the provisions of the Gujarat Municipalities Act;

(D) to issue interim mandatory direction directing the respondent No.1 Municipality to make payment of the amount of Rs.88,586.84 or the amount of Provident Fund of Rs.44,272.45 together with interest at the rate of 12% per annum within fifteen days from the date of the order, pending the hearing and final disposal of this petition;

(E) to pass such other order or orders as the nature and circumstances of the case may require;

#. From the facts of this case, which are not controverted, as reply has not been filed by the respondent, I find that the petitioner has claimed Rs.88,586.40 towards his retiral benefits. He further prayed for interest. Out of this amount, by the order of this court, the petitioner could have got Rs.22,000/=.

#. This is a case where the amount of Provident Fund has not been paid. Meaning thereby, the municipality has not kept this amount in the account and the same was misappropriated and utilised for some other purpose. This is a very serious matter but it is unfortunate that the District Collector and the

Director of the Municipalities are not taking any action and left the employee at the mercy of the God. This approach of the Collector and Director Municipalities deserves to be deprecated. It is unfortunate on the part of the employees more so the citizens of the country despite of the fact that highly paid officers are there and a substantial amount of the total revenue of the Government goes towards the payment of the salaries, these officers are not taking any care for their duties and the responsibilities. The Municipality is at fault, no doubt but equally the officers, who have supervising powers over it are equally responsible for all these things and the State of Gujarat should have taken action against those officers also. Be that as it may. The facts stated in this Special Civil Application are to be taken as correct as the same are not controverted by the respondents.

In the result, the Special Civil application succeeds and the same is allowed and the respondent No.1 is directed to pay Rs.88,586.84 to the petitioner with interest @12% from 1.9.88 till the date of payment within a period of one month from the date of the receipt of the writ of this order. In case, any amount is paid by the respondent No.1 to the petitioner against this claim of the petitioner, then it is permissible to it to deduct the same from the amount payable to the petitioner and the balance amount is to be paid to the petitioner together with interest on the full amount from 1.9.1988 to the date of part payment and balance amount with interest from that date to the date of the payment thereof. The respondents are directed to pay Rs.1,000/= as cost of the petition to the petitioner. This amount of the cost is to be paid to the petitioner only within a period one month from the date of the receipt of the writ of this order also.

(S.K.Keshote, J.)

*Pvv